



COMPETITION APPEAL TRIBUNAL

NOTICE OF A CLAIM UNDER SECTION 47A OF THE COMPETITION ACT 1998

CASE NO 1346/5/7/20

Pursuant to rule 33(8) of the Competition Appeal Tribunal Rules 2015 (S.I. 2015 No. 1648) (“the Rules”), the Registrar gives notice of the receipt of a claim for damages (“the Claim”) on 30 April 2020, under section 47A of the Competition Act 1998 (“the Act”), by (1) Volvo Car AB and (2) Volvo Personvagnar AB (“the Claimants”) against (1) MOL (Europe Africa) Ltd; (2) Wallenius Wilhelmsen ASA; (3) Walleniusrederierna AB; (4) Wallenius Wilhelmsen Ocean AS; (5) Wallenius Logistics AB; (6) Wilhelmsen Ships Holding Malta Ltd; (7) EUKOR Car Carriers Inc; (8) Kawasaki Kisen Kaisha, Ltd; (9) Nippon Yusen Kabushiki Kaisha;¹ and (10) Compania Sudamericana de Vapores SA (“the Defendants”). The Claimants are represented by Hausfeld & Co LLP, 12 Gough Square, London EC4A 3DW (reference: Andrew Bullion).

The Claim arises from a settlement decision of the European Commission (“the Commission”) dated 21 February 2018 (Case AT.40009 – Maritime Car Carriers) relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (“TFEU”) and Article 53 of the Agreement on the European Economic Area (“the EEA Agreement”) (“the Decision”).

In the Decision, the Commission found that five named undertakings participated in a single and continuous infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement, in particular by (i) co-ordinating prices; (ii) rigging bids; (iii) allocating customers; (iv) restricting capacity and (v) sharing commercially sensitive pricing information regarding international shipping services for roll-on, roll-off cargo (“RoRo Services”) on various routes to and from the EEA from 18 October 2006 to 6 September 2012 (or 24 May 2012 in the case of the undertaking which the First Defendant forms part of a single economic unit).

The Claimants are incorporated under Swedish law and are companies within the Volvo Car group of companies, which manufactured passenger cars in the EEA that were transported by suppliers of RoRo Services from the EEA to ports located outside the EEA.

Each of the Defendants was engaged or involved in the provision of RoRo Services on routes to and from the EEA and is an addressee of the Decision.

According to the Claim, RoRo Services were typically provided under framework agreements with carriers following a tendering process, which invited carriers competitively to bid to provide RoRo Services. The framework agreements typically provided that for the term of the agreement, the carrier would procure the carriage of an agreed capacity of vehicles, on agreed routes at agreed rates and specify the terms of the contracts of carriage that would be entered into for this purpose. The framework agreements thus generally determined the prices payable for the provision of the RoRo Services and the essential terms upon which these services would be provided. The Second Claimant, as well as other companies on the Second Claimants’ behalf, invited carriers competitively to bid to provide RoRo Services and the Second Claimant paid, whether directly or indirectly, for RoRo Services provided under the framework agreements.

The Claimants allege that the Defendants infringed the Claimants’ directly effective rights under the TFEU and EEA Agreement and breached their statutory duties under the European Communities Act 1972, which caused (i) overcharge losses to the Second Claimant, which paid inflated prices and consequently inflated import duties and taxes for RoRo Services; and (ii) loss of profit and/or increased borrowing costs suffered by the First Claimant as a result of such inflated prices, import duties and taxes. According to the Claim, the Defendants are jointly and severally liable for the Claimants’ losses.

¹ The claim against the Ninth Defendant was withdrawn by consent on 28 May 2020.

The Claimants claim:

1. Damages;
2. Compound interest, alternatively statutory interest;
3. Costs; and
4. Further or other relief.

Further details concerning the procedures of the Competition Appeal Tribunal can be found on its website at www.catribunal.org.uk. Alternatively, the Tribunal Registry can be contacted by post at Salisbury Square House, 8 Salisbury Square, London EC4Y 8AP, or by telephone (020 7979 7979) or email (registry@catribunal.org.uk). Please quote the case number mentioned above in all communications.

Charles Dhanowa OBE, QC (Hon)
Registrar

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